

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Case No. S2 20 Cr. 110 (LJL)

Plaintiff,

-against-

**VERIFIED PETITION FOR
ANCILLARY HEARING**

LAWRENCE RAY,

Defendant(s)
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U.S. Bank Trust National Association, as Trustee of the Cabana Series III Trust ("Petitioner"), by and through its undersigned counsel, Friedman Vartolo LLP, hereby petitions this Court for an ancillary hearing pursuant to 21 U.S.C. § 853(n)(2) and asserts its superior interest, with respect to the property located at 4 Scarborough Place, Pinehurst, North Carolina 28374 (hereinafter the "Premises"), which has been forfeited to the United States, and in support thereof states as follows:

1. On or about January 23, 2012, Gordon T. Ray and Ingrid P. Ray (hereinafter "Borrowers") executed and delivered a note to Freedom Mortgage Corporation for the sum of \$271,000, with interest to be computed pursuant to the terms thereof (hereinafter "Note"). A copy of the Note is annexed hereto as **Exhibit A**.

2. As security for payment of this debt, on January 23, 2012, the Borrowers executed a Deed of Trust to Mortgage Electronic Registration Systems, Inc. as nominee for Freedom Mortgage Corporation, which encumbered the Premises located at 4 Scarborough Place, Pinehurst, North Carolina 28374 (hereinafter "Premises"). The Deed of Trust was recorded in the Moore County Clerk's Office on February 13, 2012, in Instrument # 2012002165 (hereinafter "Deed of Trust"). A copy of the Deed of Trust is annexed hereto as **Exhibit B**.

3. Thereafter, the Deed of Trust was assigned as provided for below:

ASSIGNMENT OF DEED OF TRUST

Assignor: Mortgage Electronic Registration Systems, Inc. as nominee for Freedom Mortgage Corporation

Assignee: Freedom Mortgage Corporation

Dated: April 29, 2013

Recorded: May 13, 2013

Instrument No.: 2013007602

ASSIGNMENT OF DEED OF TRUST

Assignor: Freedom Mortgage Corporation

Assignee: Secretary of Housing and Urban Development

Dated: August 6, 2014

Recorded: August 20, 2014

Instrument No.: 2014009892

ASSIGNMENT OF DEED OF TRUST

Assignor: Secretary of Housing and Urban Development

Assignee: DLJ Mortgage Capital, Inc.

Dated: August 12, 2014

Recorded: August 20, 2014

Instrument No.: 2014009893

ASSIGNMENT OF DEED OF TRUST

Assignor: DLJ Mortgage Capital, Inc.

Assignee: New Residential Investment Corp.

Dated: August 12, 2014

Recorded: August 20, 2014

Instrument No.: 2014009894

ASSIGNMENT OF DEED OF TRUST

Assignor: New Residential Investment Corp.

Assignee: New Residential Mortgage Loan Trust 2014-NPL1, U.S. Bank Trust National Association, not in its individual capacity but solely as Indenture Trustee

Dated: August 12, 2014

Recorded: August 20, 2014

Instrument No.: 2014009895

ASSIGNMENT OF DEED OF TRUST

Assignor: New Residential Mortgage Loan Trust 2014-NPL1, U.S. Bank Trust National Association, not in its individual capacity but solely as Indenture Trustee

Assignee: NRZ Mortgage Holdings LLC

Dated: October 20, 2014

Recorded: February 20, 2020

Instrument No.: 2020002871

ASSIGNMENT OF DEED OF TRUST

Assignor: NRZ Mortgage Holdings LLC

Assignee: MTGLQ Investors, LP

Dated: February 10, 2020

Recorded: March 4, 2020

Instrument No.: 2020003687

ASSIGNMENT OF DEED OF TRUST

Assignor: MTGLQ Investors, LP

Assignee: U.S. Bank Trust National Association, as Trustee of the Chalet Series III Trust

Dated: January 22, 2020

Recorded: February 20 2020

Instrument No.: 2020002872

ASSIGNMENT OF DEED OF TRUST

Assignor: U.S. Bank Trust National Association, as Trustee of the Chalet Series III Trust

Assignee: U.S. Bank Trust National Association, as Trustee of the Cabana Series III Trust

Dated: March 26, 2020

Recorded: April 6, 2020

Instrument No.: 2020005642

Copies of the Assignments of Mortgage the Deed of Trust are annexed hereto as **Exhibit C.**

4. It is respectfully submitted that Petitioner, as bona fide holder of the Note and Deed of Trust dated January 23, 2012 and recorded on February 13, 2012 in the Moore County Clerk's Office, which Note and Deed of Trust were assigned to Petitioner pursuant to the Assignment of Deed of Trust, recorded on April 6, 2020 in the Moore County Clerk's Office, is the holder of a superior legal interest in the Premises, as the loan originated prior to the time of the commission of the acts which gave rise to the forfeiture, and Petitioner was reasonably without cause to believe that the Premises was subject to forfeiture at the time of assignment of the Note and Deed of Trust.

5. As of March 31, 2023, the total amount owed to Petitioner through April 7, 2023, is \$208,587.16. A copy of a payoff statement is annexed hereto as **Exhibit D.**

6. Petitioner respectfully requests that the Court determine Petitioner's interest to be a first lien on the Premises, which is prior, paramount, and superior to any other interest of any

other party. Further, Petitioner respectfully requests that any sale or other disposition of the Premises be subject to its interest and that the indebtedness represented by the Note as secured by the Deed of Trust be fully satisfied out of the proceeds of any sale or other disposition of the property. Petitioner further requests that it be awarded reasonable attorney's fees and costs incurred herein, and for such other and further relief as the Court deems just and proper.

WHEREFORE, for the reasons set forth herein, Petitioner seeks relief from the Court's Preliminary Order of Forfeiture and hereby requests that the Court hold an ancillary proceeding pursuant to 21 U.S.C. 853(n)(5), and further that this Court fully recognize in the Final Order of Forfeiture, the superior interest of Petitioner and requested relief as set forth herein.

Dated: Garden City, New York
March 31, 2023

FRIEDMAN VARTOLO LLP

By: /s/ Kevin M. Butler
Kevin M. Butler, Esq.
Attorneys for U.S. Bank Trust National
Association, as Trustee of the Cabana
Series III Trust
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Garden City, New York 11530
(212) 471-5100
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CERTIFICATION PURSUANT TO 21 U.S.C. § 853(n)(3)

William A. Fogleman, being duly sworn, deposes and says:

I am a Corporate Counsel of SN Servicing Corporation (hereinafter "SNSC"), as servicer and attorney-in-fact for U.S. Bank Trust National Association, as Trustee of Cabana Series V Trust (hereinafter "Petitioner") and am authorized to sign this Certification on Petitioner's behalf. A copy of the Limited Power of Attorney between SNSC and Petitioner is attached hereto. I swear under penalty of perjury that the foregoing assertions and information provided in this petition are true and correct to the best of my knowledge and belief.

U.S. Bank Trust National Association, as Trustee of
the Cabana Series III Trust by SN Servicing
Corporation, servicer and attorney-in-fact

By: William A. Fogleman

Print Name: William A. Fogleman

Title: Corporate Counsel

Sworn to before me on this

31 day of March, 2023

John E. Clark
Notary Public: John E. Clark



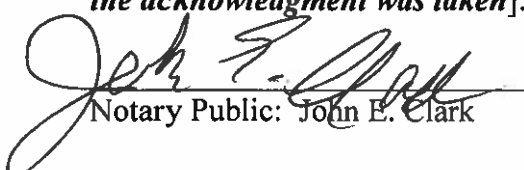
**TO BE COMPLETED, IN ADDITION TO JURAT (ABOVE), IF EXECUTING OUTSIDE
OF NEW YORK STATE**

STATE OF LOUISIANA)

) ss.

PARISH OF EAST BATON ROUGE)

On the 31 day of March in the year 2023 before me, the undersigned, a Notary Public in and for said State, personally appeared William A. Fogleman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in Baton Rouge, Louisiana [*Insert the city or other political subdivision and the state or county or other place the acknowledgment was taken*].


Notary Public: John E. Clark

Personally Known X OR
Produced Identification ✓.

Type of Identification Produced:
driver's license.

